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COMMISSION

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2020/0159 (NLE)

Proposal for a

# COUNCIL REGULATION

## amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters

# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE PROPOSAL

### • Reasons for and objectives of the proposal

Council Regulation (EU) 2020/123 fixes for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters. These fishing opportunities are usually amended several times during the period in which they are in effect.

### • Consistency with existing policy provisions in the policy area

The measures proposed are designed in accordance with the objectives and the rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

### • Consistency with other Union policies

The measures proposed are consistent with other Union policies, in particular with the policies in the field of environment.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

### • Legal basis

The legal basis of this proposal is Article 43(3) of the Treaty on the Functioning of the European Union.

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of the new basic regulation of the CFP.

### • Subsidiarity (for non-exclusive competence)

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) of the Treaty. The subsidiarity principle therefore does not apply.

### • Proportionality

The proposal complies with the proportionality principle for the following reason: the CFP is a common policy. According to Article 43(3) of the Treaty, it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

### • Choice of the instrument

Proposed instrument: regulation.

## 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

### • Ex-post evaluations/fitness checks of existing legislation

Not applicable

### • Stakeholder consultations

The Proposal takes into account the feedback from the stakeholders, Advisory Councils, the national administrations, fishermen organisations and non-governmental organisations

throughout the year and their feedback is taken into account when setting the fishing opportunities.

- **Collection and use of expertise**

The Proposal is based on the scientific advice[1] of the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF).

- **Impact assessment**

The scope of the fishing opportunities regulation is circumscribed by Article 43(3) of the Treaty.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

## 4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

## 5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The proposed amendments seek to modify Council Regulation (EU) 2020/123 as described below.

Anchovy in subareas 9 and 10

Anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and in Union waters of CECAF 34.1.1 is a short-lived species, for which surveys are concluded in May. The period for total allowable catch (TAC) is set from 1 July to 30 June of the following year. This ensures that the fishing opportunities are based on the best possible assessment of the annual recruitment of this short-lived species.

In Council Regulation (EU) 2020/123 the TAC for anchovy in ICES subareas 9 and 10 and in Union waters of CECAF 34.1.1 applicable from 1 July 2020 to 30 June 2021 was set at zero awaiting the new scientific advice. In the second amendment to the 2020 fishing opportunities, a provisional TAC of 4 018 tonnes was established until 30 September 2020 to allow the fishery to continue. The scientific advice was issued on 18 June 2020. The TAC for the period starting on 1 July 2020 should therefore be amended in line with the latest scientific advice from ICES.

Access to blue whiting in Faroese waters

In the Agreed Record of fisheries consultations between the Faroe Islands and the European Union for 2020, both parties have agreed to grant each other reciprocal access to one another's waters to fish for blue whiting (*Micromesistius poutassou*) in Union and international waters of 1, 2, 3, 4, 5, 6, 7, 8a, 8b, 8d, 8e, 12 and 14, within the limit of 37 500 tonnes each. A special condition limits the amount of how much blue whiting Member States

[1] http://www.ices.dk/community/advisory-process/Pages/Latest-advice.aspx

can fish from their own quotas in Faroese Waters to a certain percentage of the total EU share. This percentage should represent the proportion of the EU access rights of 37 500 tonnes compared to the total EU share of 326 484 tonnes. This amounts to a percentage of 11.4%, which is the amount that the Member States can fish from their own quotas in Faroese Waters. This percentage, currently set at 7%, should be amended accordingly.

Access to blue whiting in EU waters

In the Agreed Record of fisheries consultations between Norway and the European Union on ad hoc fisheries arrangements on the management of blue whiting and Norwegian spring-spawning (atlanto-scandian) herring for 2020, both parties are granted to fish 190 809 tonnes of blue whiting in each other's waters. A special condition limits Norway's fishing access in Union waters of 4a to 40 000 tonnes (in accordance with the Agreed Record on fisheries consultations between Norway and the European Union for 2020). This catch limit in 4a amounts to 21% of Norway's total access quota in Union waters of 2, 4a, 5, 6 north of 56° 30' N and 7 west of 12° W. This percentage number, currently set at 18%, should be amended accordingly.

Fishing opportunities for capelin in Greenland waters

The protocol of the Fisheries Partnership Agreement between the European Union and Greenland provides that the Union receives 7.7% of the total available catch for capelin (*Mallotus villosus*) to be fished in Greenland waters of ICES subareas 5 and 14. Following the ICES advice of 169 520 tonnes, and in accordance with the EU-Greenland Fisheries Protocol, Greenland has offered on 12 June 2020 13 053 tonnes of capelin to the European Union. The fishing season for this TAC starts on 20 June 2020 and ends on 15 April 2021. In the Council Regulation (EU) 2020/123, the TAC table for capelin was set at zero for the period between 20 June 2019 and 30 April 2020, and should therefore be amended accordingly for the period between 20 June 2020 and 15 April 2021.

Consultation of the United Kingdom

As this Regulation is to be adopted during the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, the Commission will consult the United Kingdom in accordance with Article 130(1) of that Agreement.

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Proposal for a

# COUNCIL REGULATION

## amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2020/123[1] fixes for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters.

(2) In Regulation (EU) 2020/123, the total allowable catch (TAC) for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and in Union waters of CECAF division 34.1.1 was set at zero. In the second amendment[2] to Council Regulation (EU) 2020/123, a provisional TAC was established to allow the fishery to continue. Anchovy is a shortlived species and the scientific advice was issued on 18 June 2020. The catch limits for anchovy in ICES subareas 9 and 10 and in Union waters of CECAF division 34.1.1 should be amended in line with the latest scientific advice from the International Council for the Exploration of the Sea (ICES) and set at 15 699 tonnes.

(3) In the Agreed Record of fisheries consultations between the Faroe Islands and the European Union for 2020 both parties have agreed to grant each other reciprocal access to one another's waters to fish for blue whiting (*Micromesistius poutassou*) in Union and international waters of 1, 2, 3, 4, 5, 6, 7, 8a, 8b, 8d, 8e, 12 and 14, within the limit of 37 500 tonnes. A special condition in the TAC table grants the Union access to Faroese waters and limits, in the form of a percentage of the total Union share, the amount of blue whiting that Member States can fish from their own quotas in the Faroese waters. This percentage should represent the proportion of the Union access rights of 37 500 tonnes compared to the total Union share of 326 484 tonnes of blue whiting. This amounts to a percentage of 11.4%, which is the amount that the Member States can fish from their own quotas in Faroese Waters. This percentage, currently set at 7%, should be amended accordingly.

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[1] Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 25, 30.1.2020, p. 1).

[2] Council Regulation (EU) 2020/900 of 25 June 2020 amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters, *OJ L 207, 30.6.2020, p. 4–14*

(4) In the Agreed Record of fisheries consultations between Norway and the European Union on ad hoc fisheries arrangements on the management of blue whiting (*Micromesistius poutassou*) and Norwegian spring-spawning (atlanto-scandian) herring for 2020, both parties are granted to fish 190 809 tonnes of blue whiting in each other's waters. In the TAC table for blue whiting allowing Norway's fishing access in Union waters of 2, 4a, 5, 6 north of 56° 30' N and 7 west of 12° W, a special condition limits the catch in 4a to be no more than 40 000 tonnes (in accordance with the Agreed Record on fisheries consultations between Norway and the European Union for 2020). That catch limit in 4a amounts to 21% of Norway's total access quota. This percentage number, currently set at 18%, should be amended accordingly.

(5) The Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand[3], and the Protocol[4] thereto, provides that the Union receives 7,7% of the total available catch for capelin (*Mallotus villosus*) to be fished in Greenland waters of ICES subareas 5 and 14. In accordance with the Protocol, on 12 June 2020; Greenland offered 13 053 tonnes of capelin to the European Union to be fished between 20 June 2020 and 15 April 2021. The fishing opportunities table for capelin should therefore be amended accordingly.

(6) Regulation (EU) 2020/123 should therefore be amended accordingly.

(7) The catch limits provided for in Regulation (EU) 2020/123 apply from 1 January 2020 for blue whiting in Union waters of 2, 4a, 5, 6 north of 56° 30' N and 7 west of 12° W, from 20 June 2020 for capelin in Greenland waters of ICES subareas of 5 and 14, and from 1 July 2020 for anchovy in ICES subareas 9 and 10 and in Union waters of CECAF division 34.1.1. The provisions introduced by this Regulation concerning catch limits should therefore enter in force as soon as possible and should apply retroactively for blue whiting from 1 January 2020, for capelin from 20 June 2020, and for anchovy from 1 July 2020. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations, as the fishing opportunities concerned have not yet been exhausted.

(8) The United Kingdom has been consulted in accordance with Article 130(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendment of Regulation (EU) 2020/123**

Annexes IA and IB to Regulation (EU) 2020/123 are amended as follows:

(1) Annex IA is amended as follows:

(a) The fishing opportunities table for anchovy in 9 and 10 and Union waters of CECAF division 34.1.1 is replaced by the following:

[3] OJ L 172, 30.06.2007, p. 4.

[4] Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand (OJ L 305, 21.11.2015, p. 3).

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| Species: | Anchovy<br>*Engraulis encrasicolus* | | Zone: | 9 and 10; Union waters of CECAF 34.1.1<br>(ANE/9/3411) |
|---|---|---|---|---|
| Spain | 7 494 | (1) | Precautionary TAC | |
| Portugal | 8 175 | (1) | | |
| Union | 15 669 | (1) | | |
| TAC | 15 669 | (1) | | |

(1) The quota may only be fished from 1 July 2020 to 30 June 2021.

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(b) In the fishing opportunities table for blue whiting (*Micromesistius poutassou*) in Union and international waters of 1, 2, 3, 4, 5, 6, 7, 8a, 8b, 8d, 8e, 12 and 14, footnote 1 is replaced by the following:

“(1) Special condition: within a total access quantity of 37 500 tonnes for the Union, Member States may fish up to the following percentage of their quotas in Faroese waters (WHB/*05-F.): 11.4 %.”;

(c) In the fishing opportunities table for blue whiting (*Micromesistius poutassou*) in Union waters of 2, 4a, 5, 6 north of 56° 30' N and 7 west of 12° W, footnote 2 is replaced by the following:

“(2) Special condition: the catch in 4a shall be no more than the following amount (WHB/*04A-C): 40 000

This catch limit in 4a amounts to the following percentage of Norway's access quota:

21%”;

(2) In Annex IB, the fishing opportunities table for capelin in Greenland waters of 5 and 14 is replaced by the following:

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| Species: | Capelin<br>*Mallotus villosus* | | Zone: | Greenland waters of 5 and 14<br>(CAP/514GRN) |
|---|---|---|---|---|
| Denmark | 2 595 | | Analytical TAC | |
| Germany | 113 | | Article 3 of Regulation (EC) No 847/96 shall not apply | |
| Sweden | 186 | | Article 4 of Regulation (EC) No 847/96 shall not apply | |
| United Kingdom | 24 | | | |
| All Member States | 134 | (1) | | |
| Union | 3 053 | (2) | | |
| Norway | 10 000 | (2) | | |

| | |
|---|---|
| TAC | Not relevant |
| (1) | Denmark, Germany, Sweden and the United Kingdom may access the "All Member States" quota only once they have exhausted their own quota. However, Member States with more than 10% of the Union quota shall not access the "All Member States" quota at all. |
| (2) | For a fishing period from 20 June 2020 to 15 April 2021." |

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*Article 2*
*Entry into force and application*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 1(1) point (a) shall apply from 1 July 2020, and points (b) and (c) shall apply from 1 January 2020.

Article 1(2) shall apply from 20 June 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*
*The President*